Patent
Attorney's Docket No. 0320-002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	)	
	)	Group Art Unit: 2174
Frank A. HUNLETH et al.	)	
	)	Examiner: Le V. Nguyen
Application No.: 10/768,234	)	
	)	
Filed: January 30, 2004	)	
	)	
For: METHODS AND SYSTEMS FOR GENERATING A ZOOMABLE GRAPHICAL USER INTERFACE	)	

APPEAL BRIEF PURSUANT TO 37 C.F.R § 41.37

Sir:

Further to the Notice of Appeal filed on December 18, 2008 and in connection with the above-identified application submitted herewith is the Appeal Brief.

(i) **REAL PARTY IN INTEREST**

The real party in interest is the assignee, Hillcrest Laboratories Inc.

(ii) **RELATED APPEALS AND INTERFERENCES**

To the best of the undersigned's knowledge, there is an appeal procedure in Serial No. 10/768,432, which may be related to this appeal. An Appeal Brief has been filed in Serial No. 10/768,432 on February 10, 2009.

(iii) **STATUS OF CLAIMS**

Claims 15-19, 23-28, 32-37, and 41-56 are currently pending, have all been rejected two or more times, and are all the subject of this appeal.

(iv) **STATUS OF AMENDMENTS**

No Amendments have been submitted in this application subsequent to the Notice of Appeal of December 18, 2008. The Notice of Appeal has been filed in response to the Non-Final Office Action of September 19, 2008, which is a third Office Action.

(v) **SUMMARY OF CLAIMED SUBJECT MATTER**

According to exemplary embodiments, zoomable graphical user interfaces provide users with the capability to browse a large (or small) number of media items rapidly and easily as disclosed, for example, in the originally filed specification at paragraph [0045]. Plural images are aligned relative to one another as shown in Figure 17, in rows and columns. A user may move a cursor 508 (see Figure 5) over one of the images (for example genre 3, element 552), which results in enlarging the one of the images as shown either in Figure 6, element 552 or element "Apollo 13" in Figure 19. The enlarged image Apollo 13 overlaps at least one other image, for example, "Chicago" in Figure 19.

As shown in Figure 20, the selected one of the images (Apollo 13) is displayed together with additional information (text information in Figure 20) while the other images shown in Figure 18 (for example "Chicago") are not displayed. The selected image Apollo 13 is also enlarged as shown in Figure 20. When an input is received about one of the images of Figure 18, a media item associated with the image is launched as disclosed in paragraph [0075].

Independent Claim 15 is directed to a method for interfacing with a plurality of images (see Figure 18), where each of the plurality of images represents a selectable media item (see specification, paragraph [0002]). The method includes a step of displaying the plurality of images aligned relative to one another in rows and columns (see Figure 17 and paragraph [0072]) at a first semantic level of a user interface and

moving a cursor (see element 508 in Figure 5 and paragraph [0039]) over one of the plurality of images (see Figure 5 and/or 17). The method includes enlarging (see Figure 19, image corresponding to movie Apollo 13 being enlarged) the one of the plurality of images (Apollo 13 in Figure 19) in response to the cursor movement, where the one of the plurality of images (Apollo 13 in Figure 19) overlaps at least one of the plurality of images (Chicago in Figure 19) at the first semantic level of the user interface. The method includes displaying (see Figure 20 or Figures 15(a) and (b)) the one of the plurality of images (Apollo 13 in Figure 20) together with additional information (see Figure 15(b) or Figure 20 showing image and associated text information) associated with the one of the plurality of images (Apollo 13 in Figure 20) while non-displaying the remaining of the plurality of images (Chicago in Figure 18 is not shown in Figure 20), after enlarging the one of the plurality of images (Apollo 13) and prior to launching a media item (movie Apollo 13) represented by the one of the plurality of images. The method includes receiving (see paragraphs [0073] and [0075]) a selection input associated with the one of the plurality of images (Apollo 13) and launching (see paragraph [0075]) the media item represented by the one of the plurality of images (Apollo 13).

Independent Claim 24 is directed to a user interface. The user interface includes means for displaying (at least one of processor 300 shown in Figure 4 and screen 212 shown in Figure 3) a plurality of images (see Figure 17), where each of the plurality of images represents a selectable media item aligned relative to one another in rows and

columns at a first semantic level of a user interface (see Figure 17). The user interface also includes means for moving (processor 300 in Figure 4 and primitive SCROLL 1902 in Figure 22 and paragraph [0079]) a cursor (element 508 in Figure 5) over one (Apollo 13) of the plurality of images and means for enlarging (processor 300 in Figure 4 and primitive ZOOM 1902 in Figure 22 and paragraph [0079]) the one (Apollo 13) of the plurality of images in response to the cursor movement, where the one of the plurality of images (Apollo 13 in Figure 19) overlaps (see Figure 19) at least one of the plurality of images (Chicago in Figure 19) at the first semantic level of the user interface. The user interface includes means for displaying (processor 300 in Figure 4 and one or more primitives disclosed in paragraph [0079]) the one of the plurality of images (Apollo 13) together with additional information (see text data in Figure 20, next to Apollo 13 image, or Figures 15(a) and (b)) associated with the one of the plurality of images while non-displaying the remaining of the plurality of images (Chicago in Figure 18), after enlarging the one of the plurality of images (Apollo 13 in Figure 20 or see Figures 15(a) and (b)) and prior to launching a media item represented by the one of the plurality of images. The user interface includes means for receiving (element 310 in Figure 4) a selection input associated with the one of the plurality of images and means for launching (one of the primitives 1902 of Figure 22) the media item represented by the one of the plurality of images.

Independent Claim 33 is directed to a computer-readable medium containing instructions which, when executed on a computer, perform the steps of displaying the

plurality of images aligned relative to one another in rows and columns (see Figure 17 and paragraph [0072]) at a first semantic level of a user interface and moving a cursor (see element 508 in Figure 5 and paragraph [0039]) over one of the plurality of images (see Figure 5 and/or 17). The method includes enlarging (see Figure 19, image corresponding to movie Apollo 13 being enlarged) the one of the plurality of images in response to the cursor movement, where the one of the plurality of images (Apollo 13 in Figure 19) overlaps at least one of the plurality of images (Chicago in Figure 19) at the first semantic level of the user interface. The method includes displaying (see Figure 20 or Figures 15(a) and (b)) the one of the plurality of images (Apollo 13 in Figure 20) together with additional information (see Figure 15(b) or Figure 20 showing image and associated text information) associated with the one of the plurality of images (Apollo 13 in Figure 20) while non-displaying the remaining of the plurality of images (Chicago in Figure 18 is not shown in Figure 20), after enlarging the one of the plurality of images (Apollo 13) and prior to launching a media item (movie Apollo 13) represented by the one of the plurality of images. The method includes receiving (see paragraphs [0073] and [0075]) a selection input associated with the one of the plurality of images (Apollo 13) and launching (see paragraph [0075]) the media item represented by the one of the plurality of images (Apollo 13).

(vi) **GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

A number of grounds of rejection are raised by the Examiner and listed below. Appellants request review of the following grounds of rejection on appeal.

Claims 15-19, 23-28, 32-37, 41-43, 46-48, 51-53, and 56 were rejected under 35 U.S.C. § 103(a) as unpatentable over Daily et al. (U.S. Patent Publication No. 2004/0123320, herein "Daily") in view of Brown et al. (U.S. Patent Publication No. 2004/0070631, herein "Brown"); Chi et al. (U.S. Patent No. 7,028,053) and Philips (U.S. Patent Application No. 2004/0205504).

Claims 44, 45, 49, 50, 54 and 55 were rejected under 35 U.S.C. § 103(a) as unpatentable over Daily in view of Brown, Chi, Philips and Johnston et al. (U.S. Patent No. 5,561,444, herein "Johnston").

(vii) **ARGUMENT**

A. The rejection of Claims 15-19, 23-28, 32-37, 41-43, 46-48, 51-53, and 56 is improper

I. The Combination of Daily and Brown is Improper

The independent claims have been discussed above. As independent Claim 15 recites representative features that are not found in the applied art, the following discussion is based on Claim 15. However, it applies equally to all of the independent claims.

The standard under which obviousness, or non-obviousness, must be decided was set forth in *Graham v. John Deere*, 383 U.S. 1 (1966). Therein, the court indicated that a proper review of the question involves (a) determining the scope and content of the prior art, (b) determining the level of ordinary skill in the prior art, (c) the differences between the claimed invention and the prior art and, if present (d) secondary considerations, such as commercial success. When combining the teachings of a first prior art reference with teachings from a second prior art reference, some reason or motivation for one of ordinary skill in the art to have made the combination must be identified. *C.R. Bard Inc. v. M3 Sys. Inc.*, 157 F.3d 1340 (Fed. Cir. 1998). The recent case of *KSR v. Teleflex*, 550 U.S. 398 (2007), did not absolve decision makers of the need for providing a reason or motivation to combine, but did explain that the sources or rationale to be used were not subject to rigid formulation, e.g., indicating that courts can "take account of inferences and creative steps that a person of ordinary skill in the art

would employ". These tenets of patent law are applied below to the circumstances of the rejection of the claims involved in this appeal.

Turning to the applied art, Daily is directed to a method and system for providing an interactive guide for multimedia selection. More specifically, the interactive guide system is illustrated in Figure 1(a), in which various categorizes of data (movies, music, news, etc.) are represented by corresponding icons. A user may select one category, for example, movies and then the various movies may be displayed as shown in Figure 1(b), in which each movie is represented by an image and some text information. The data associated with the various categories is structured as graph data.

The last Office Action recognizes in the paragraph bridging pages 2 and 3 that "Daily does not explicitly disclose the one of the plurality of images overlapping at least one image" and relies on Brown for teaching such a feature.

Brown shows in Figure 4 a plurality of images 304A to 304E that may be selected by a user for being printed. As disclosed in paragraph [0047], Brown may enable the user interface to enlarge a given image 304C, as shown in Figure 5, when a cursor 306 is moved over the given image. The enlarged image 304C overlaps each adjacent image 304B, 304D, 304G, and 304H.

Based on this disclosure of Brown, the last Office Action concludes that "[i]t would have been obvious to an artisan at the time of the invention to incorporate the method of Brown with the method of Daily so that users can simultaneously view multiple images and their location for navigational purposes."

The reasoning provided by the last Office Action is confusing as Daily already provides a user interface in which multiple images are simultaneously viewed, see for example Figures 1(a) and (b). Also, Figures 1(a) and (b) of Daily indicate the location of the images. Thus, it is not clear how the functionality discussed with regard to Figure 5 of Brown, when implemented in Daily, would enable the users to "simultaneously view multiple images" as the enlarged image in Brown, to the contrary, would hide part of the adjacent images.

Therefore, it appears that the last Office Action is combining the teachings of Daily with those of Brown based on hindsight.

At least for this reason, it is respectfully requested that this rejection be reversed.

II. The Combination of Daily, Brown and Chi is Improper

The last Office Action states in the paragraph bridging pages 3 and 4 that "Brown and Daily do not explicitly disclose displaying one of a plurality of images together with additional information associated therein."

To cure this deficiency of Daily and Brown the last Office Action relies on Chi for disclosing at column 12, lines 18-20, such a feature. Chi is directed to techniques for browsing through large collections of content by ***clustering*** the existing data into clusters. The clustering step is described, for example, at column 11, lines 49-60, in which various steps of the flowchart shown in Figure 10 are also discussed. The reference made by the last Office Action, i.e., column 12, lines 18-20, describes one

such step (S745) of Figure 10. Thus, the context in which a selected icon is zoomed to enlarge the icon and show a paragraph summary is performed in the ***clustering*** context.

Ignoring the context in which step S745 of Chi is performed, the last Office Action simply states that one skilled in the art would modify the user interface of Daily and Brown "in order to provide users with a summary of the displayed image."

It is noted that neither Daily nor Brown deals with clustering data. Thus, for this reason, those skilled in the art would not consider Chi for improving Daily and/or Brown as the techniques used by these references for visualizing data are different.

In addition, it is not clear why the artisan would modify Daily and Brown as suggested by the last Office Action, i.e., to provide a summary of an image, when the user in Daily does not need a summary of an image as the images shown in Figures 1(a) and (b) have already a summary next to them, for example "Movies." Again, it is respectfully submitted that one of ordinary skill in the art would not have combined the teachings of the applied art based on the reason provided by the last Office Action.

For this further reason, it is respectfully requested that this rejection be reversed.

III. The Combination of Daily, Brown, Chi and Philips is Improper

Recognizing, in the paragraph bridging pages 3 and 4 of the last Office Action, that Daily, Brown, and Chi "do not explicitly disclose displaying one of a plurality of

images while non-displaying the remaining plurality of images," the last Office Action relies on Philips for teaching the missing feature.

Philips discloses a system for navigating graphical images. As shown in Figures 2A-2C, plural images 200 are shown on the left hand side of the screen as thumbnails. After the user selects one such thumbnail (image 9 in Figure 2C), an enlarged image is shown in area 260, which corresponds to image 9, while the initial images are still maintained as thumbnails. Philips tries to remedy an existing situation, described in paragraph [0008], in which the non-selected thumbnails are not displayed when the larger, selected image is displayed.

Based on these teachings of Philips, the last Office Action asserts in the last 3 lines of the paragraph bridging pages 3 and 4 that "[i]t would have been obvious to an artisan at the time of the invention to incorporate the method of Philips with the method of Daily, Brown & Chi in order to bring focus or indicate the element that is made active."

It appears that the last Office Action is mistaken in trying to modify Daily, Brown and Chi based on the method of Philips because, as shown in Figures 2A to 2C and as discussed above, Philips displays both unselected images and the selected image. Instead, it is believed that the last Office Action intended to rely on the existing status of the background art described by Philips, i.e., non selected thumbnails are not displayed.

Even so, the reasoning provided by the last Office Action for modifying Daily, Brown and Chi, i.e., "bring focus or indicate the element that is made active" appears to

be based on pure hindsight as the teachings of Brown discussed above, i.e., overlapping a selected image over adjacent images, appear to achieve the "focus" suggested by the last Office Action.

Accordingly, it is respectfully submitted that the last Office Action combines various references based on improper reasons and one skilled in the art would not arrive at the claimed user interface when combining the applied art as suggested by the last Office Action. For the reasons discussed above it is respectfully requested that this rejection be reversed.

These arguments apply to all of the independent claims and, therefore, also to the dependent claims which have been rejected.

B. The Rejection of dependent Claims 44, 45, 49, 50, 54 and 55 is improper

Appellants respectfully submit that the rejection of dependent Claims 44, 45, 49, 50, 54 and 55 is improper for the reasons discussed above with regard to independent Claim 15.

Conclusions

For the reasons discussed above, reversal of all outstanding rejections is respectfully requested.

Respectfully submitted,

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Dated: February 18, 2008

(viii) **CLAIMS APPENDIX**

15. A method for interfacing with a plurality of images, wherein each of said plurality of images represents a selectable media item, the method comprising:

displaying said plurality of images aligned relative to one another in rows and columns at a first semantic level of a user interface;

moving a cursor over one of said plurality of images;

enlarging said one of said plurality of images in response to said cursor movement, wherein said one of said plurality of images overlaps at least one of said plurality of images at said first semantic level of said user interface;

displaying said one of said plurality of images together with additional information associated with said one of said plurality of images while non-displaying the remaining of said plurality of images, after enlarging said one of said plurality of images and prior to launching a media item represented by said one of said plurality of images;

receiving a selection input associated with said one of said plurality of images; and

launching said media item represented by said one of said plurality of images.

16. The method of claim 15, wherein when said cursor is not positioned over any one of said images, none of said plurality of images overlap any other of said plurality of images.

17. The method of claim 15, wherein said one of said plurality of images, when enlarged, overlaps each image adjacent thereto.

18. The method of claim 15, wherein said plurality of images are static.

19. The method of claim 15, wherein said plurality of images are movie cover

art.

23. The method of claim 15, wherein said enlarging of said one of said plurality of images indicates that said one of said plurality of images currently has a focus of an interface and that said a media item represented by said one of said plurality of images can be selected.

24. A user interface comprising:

means for displaying said plurality of images wherein each of said plurality of images represents a selectable media item aligned relative to one another in rows and columns at a first semantic level of a user interface;

means for moving a cursor over one of said plurality of images;

means for enlarging said one of said plurality of images in response to said cursor movement, wherein said one of said plurality of images overlaps at least one of said plurality of images at said first semantic level of said user interface;

means for displaying said one of said plurality of images together with additional information associated with said one of said plurality of images while non-displaying the remaining of said plurality of images, after enlarging said one of said plurality of images and prior to launching a media item represented by said one of said plurality of images;

means for receiving a selection input associated with said one of said plurality of images; and

means for launching said media item represented by said one of said plurality of images.

25. The user interface of claim 24, wherein when said cursor is not positioned over any one of said images, none of said plurality of images overlap any other of said plurality of images.

26. The user interface of claim 24, wherein said one of said plurality of images, when enlarged, overlaps each image adjacent thereto.

27. The user interface of claim 24, wherein said plurality of images are static.

28. The user interface of claim 24, wherein said plurality of images are movie cover art.

32. The user interface of claim 24, wherein said means for enlarging of said one of said plurality of images indicates that said one of said plurality of images currently has a focus of an interface and that said media item represented by said one of said plurality of images can be selected.

33. A computer-readable medium containing instructions which, when executed on a computer, perform the steps of:

displaying a plurality of images wherein each of said plurality of images represents a selectable media item aligned relative to one another in rows and columns at a first semantic level of a user interface;

enabling movement of a cursor over one of said plurality of images;

enlarging said one of said plurality of images in response to said cursor movement, wherein said one of said plurality of images overlaps at least one of said plurality of images at said first semantic level of said user interface;

displaying said one of said plurality of images together with additional information associated with said one of said plurality of images while non-displaying the remaining of said plurality of images, after enlarging said one of said plurality of images and prior to launching a media item represented by said one of said plurality of images;

receiving a selection input associated with said one of said plurality of images; and

launching said media item represented by said one of said plurality of images.

34. The computer-readable medium of claim 33, wherein when said cursor is not positioned over any one of said images, none of said plurality of images overlap any other of said plurality of images.

35. The computer-readable medium of claim 33, wherein said one of said plurality of images, when enlarged, overlaps each image adjacent thereto.

36. The computer-readable medium of claim 33, wherein said plurality of images are static.

37. The computer-readable medium of claim 33, wherein said plurality of images are movie cover art.

41. The computer-readable medium of claim 33, wherein said enlarging of said one of said plurality of images indicates that said one of said plurality of images currently has a focus of an interface and that said a media item represented by said one of said plurality of images can be selected.

42. The method of claim 15, wherein said step of displaying additional information associated with said one of said plurality of images after enlarging said one of said plurality of images and prior to launching a media item represented by said one of said plurality of images further comprises:

displaying said one of said plurality of images at a second semantic level of said user interface including, as said additional information, information associated with said media item represented by said one of said plurality of images.

43. The method of claim 42, further comprising:

providing a transition effect between said display of said one of said plurality of images at said first semantic level of said user interface and said display of said one of said plurality of images at said second semantic level of said user interface.

44. The method of claim 43, wherein said step of providing a transition effect further comprises:

transitioning from said first semantic level at which said one of said plurality of images is displayed to said second semantic level by:

simultaneously changing a size of said one of said plurality of images and translating said one of said plurality of images from a first location on a display to a second location, different from said first location, on said display.

45. The method of claim 44, further comprising the step of:

animating said translation of said one of said plurality of images from said first location to said second location.

46. The method of claim 15, wherein said step of displaying additional information associated with said one of said plurality of images after enlarging said one of said plurality of images and prior to launching a media item represented by said one of said plurality of images further comprises:

displaying said additional information at said first semantic level of said user interface.

47. The user interface of claim 24, wherein said means for displaying additional information associated with said one of said plurality of images after enlarging said one of said plurality of images and prior to launching a media item represented by said one of said plurality of images further comprises:

means for displaying said one of said plurality of images at a second semantic level of said user interface including, as said additional information, information associated with said media item represented by said one of said plurality of images.

48. The user interface of claim 47, further comprising:

means for providing a transition effect between said display of said one of said plurality of images at said first semantic level of said user interface and said display of said one of said plurality of images at said second semantic level of said user interface.

49. The user interface of claim 48, wherein said means for providing a transition effect further comprises:

means for transitioning from said first semantic level at which said one of said plurality of images is displayed to said second semantic level by:

means for simultaneously changing a size of said one of said plurality of images and translating said one of said plurality of images from a first location on a display to a second location, different from said first location, on said display.

50. The user interface of claim 49, further comprising:

means for animating said translation of said one of said plurality of images from said first location to said second location.

51. The user interface of claim 24, wherein said means for displaying additional information associated with said one of said plurality of images after enlarging said one of said plurality of images and prior to launching a media item represented by said one of said plurality of images further comprises:

means for displaying said additional information at said first semantic level of said user interface.

52. The computer-readable medium of claim 33, wherein said step of displaying additional information associated with said one of said plurality of images after enlarging said one of said plurality of images and prior to launching a media item represented by said one of said plurality of images further comprises:

displaying said one of said plurality of images at a second semantic level of said user interface including, as said additional information, information associated with said media item represented by said one of said plurality of images.

53. The computer-readable medium of claim 52, further comprising:

providing a transition effect between said display of said one of said plurality of images at said first semantic level of said user interface and said display of said one of said plurality of images at said second semantic level of said user interface.

54. The computer-readable medium of claim 53, wherein said step of providing a transition effect further comprises:

transitioning from said first semantic level at which said one of said plurality of images is displayed to said second semantic level by:

simultaneously changing a size of said one of said plurality of images and translating said one of said plurality of images from a first location on a display to a second location, different from said first location, on said display.

55. The computer-readable medium of claim 54, further comprising the step of:

animating said translation of said one of said plurality of images from said first location to said second location.

56. The computer-readable medium of claim 33, wherein said step of displaying additional information associated with said one of said plurality of images

after enlarging said one of said plurality of images and prior to launching a media item represented by said one of said plurality of images further comprises:

displaying said additional information at said first semantic level of said user interface.

(ix) **EVIDENCE APPENDIX**

None.

(x) **RELATED PROCEEDINGS APPENDIX**

None.